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OFFICE OF PETITIONS

In re Application of :
Schaffer et al. : DECISION DISMISSING PETITION
Application No. 10/801,761 : UNDER 37 CFR 3.81(b)
Filed: 15 March, 2004 :
Atty Docket No. USA.301-1 :

This is a decision on the petition, filed on 28 September, 2005, which is being treated as a request under 37 CFR 3.81(b)¹ to correct the assignee data on the Fee(s) Transmittal form PTOL-85(b).

The request is dismissed.

Petitioner states that the correct assignee is UNIVERSITY OF QUEENSLAND, QUEENSLAND, AUSTRALIA, and that an incorrect assignee was unintentionally specified on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that the patent issue to UNIVERSITY OF QUEENSLAND, QUEENSLAND, AUSTRALIA.

37 CFR 3.81(b), effective June 25, 2004, reads:

After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

¹ See Official Gazette of June 22, 2004.

Application No. 10/801,761

The request under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction (and fee) as required by 3.81(b). As petitioner has failed to comply with the provisions of 37 CFR 3.81(a), the request cannot be granted.

A review of Office database assignment records reflects that an assignment to UNIVERSITY OF QUEENSLAND, QUEENSLAND, AUSTRALIA has been recorded. Therefore, upon submission of the required certificate of correction and fee, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that UNIVERSITY OF QUEENSLAND, QUEENSLAND, AUSTRALIA was the assignee of record at the time of issuance of the instant application into a patent. Note also 35 U.S.C. § 152.

In view of the above and **after issuance of this application into a patent, the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction (and fee) which sets forth UNIVERSITY OF QUEENSLAND, QUEENSLAND, AUSTRALIA, as the assignee.** No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in this request. A copy of this decision **must** accompany the request for a Certificate of Correction.

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignee set forth in this request, as this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Alternatively, if petitioner desires to have the correct assignee data appear on the front page of the Letters Patent, petitioner may wish to consider filing a petition to withdraw the subject application from issue under 37 CFR 1.313(c)(2). The petition to withdraw from issue under 37 CFR 1.313(c)(2) must be accompanied by a request for continued examination (RCE) and submission (which may be a request under 37 CFR 3.81(b)).

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3231.

After the submission by petitioner of the request for a certificate of correction to correct the assignee data on the

Application No. 10/801,761

front page of the Letters Patent, any questions pertinent thereto should be directed to the Certificates of Correction Branch at 703.305.8309.

A handwritten signature in black ink, appearing to read "D Wood". The signature is stylized with a large, looped "D" and a cursive "Wood".

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions